IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.228/2000

Mahasingh & Anr. **Versus** State & Anr.

DATE OF ORDER :: 20/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. N.R. Choudhary, for petitioners
Mr. Arun Sharma, Public Prosecutor for State
Mr. Alok Sharma, for respondent

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Instant petition has been filed assailing the order dated 5th April, 2000 whereby learned trial Judge on the application filed by complainant directed the accused-petitioners to hand over 20 Maan of Mustard to the complainant on furnishing security of Rs.25,000/-.

Complainant-respondent filed a written report in which it was alleged that he was owner of 1/3 of Khasra Nos.650 & 651 and he has sown crops of Mustard in his own share of land, but under force/threat, the accused-petitioners herein have cut crops from his field – on which FIR dated 21st March, 2000 was registered and after investigation, a negative Final Report No.31 dated 29th March, 2000 was submitted. It appears that after the Final Report was submitted, application filed by the complainant for share of his mustard was pending consideration. Learned trial Judge passed order on their application

dated 5th April, 2000 directing the accused-petitioners to hand over half of mustard i.e. 20 Maan to the complainant-respondent on furnishing security of Rs.25,000/- and it appears that FR has not been taken note of by learned trial Judge while passing order impugned, which was certainly required to be looked into while passing order on the present application.

Accordingly, the misc. petition stands allowed. The order dated 5th April, 2000 is hereby quashed and set aside. Record be sent back to trial court, who is directed to examine the matter afresh after taking note of FR which is on record, in accordance with law.

[AJAY RASTOGI],J.

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